



**U.S. Immigration
and Customs
Enforcement**

August 22, 2011

JASON SMATHERS
MUCKROCK
185 BEACON STREET #3
SOMERVILLE, MA 02143

**Re: ICE FOIA Request Number 2011FOIA10437
USCIS FOIA Request Number COW2011000494**

Dear Mr. Smathers:

This letter is the final response to your Freedom of Information Act (FOIA) request, dated June 3, 2011, to the U.S. Citizenship and Immigration Services (USCIS), for an index, log, or other listing of all "Mariel" cases including the Alien's date of birth and a case identifier such as an alien identification number.

Your request has been processed under the FOIA, 5 U.S.C. § 552. A search of the ICE Office of Enforcement and Removal Operations (ERO) for documents responsive to your request produced a total of three (3) excel spreadsheets that are responsive to your request. After review of the 3 spreadsheets, I have determined that portions of two (2) spreadsheets will be withheld under Title 5 U.S.C. § 552 (b)(6) and (b)(7)(C) of the FOIA.

ICE has applied Exemptions 6 and 7(C) to protect from disclosure the dates of birth and Alien Identification Numbers of the third parties contained within the documents.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld may consist of social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.


You have the right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter to: Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.

If you need to contact our office about this matter, please refer to case number **2011FOIA10437**. This office can be reached at (202) 732-0600 or (866) 633-1182.

Sincerely,


✓ Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 3 Excel Spreadsheets on 1 CD